1950

File No. O. Hindu Law
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Legal Deptt.

A **BRANCH**

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C O N T E N T S

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Sr.No.	R.I./O.No.	Subject	Pages.
	O. Hindu Law/1950.	Opinions under the Hindu Law.	
1	O. No. 11371 10-8-50	Re: Restoration attached property to Varakmath in Dombre village. Question of succession to a Mahant must be governed by the particular usage of the institution and in fact the general law.	1-3
2	O.No. 15906 14-11-50	Re: rule of "damdupat" benefit of-- should be extended even to a Mahomedan debtor on grounds of equity.	

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Office of the H. L. A.

Restoration of attached property to Varaktmath in Sambre village.

It is now settled that the position of a mahant, in relation to the muth over which he presides, is, speaking generally, that of a trustee and not of an owner, though he possesses larger powers of internal management. But being the trustee, he has no right to appoint a successor, and the question of succession to him must be governed by the particular usage of the institution and, in fact the general law. If, by the practice and usage of an institution, the mahant is entitled to nominate a successor, the courts will give effect to it. The mahant cannot appoint a successor by will, though he may be authorised by usage to appoint one, but that "usage forms the controlling rule with regard to the right to the office of mahant may now be considered as having been conclusively settled by authority." (Gour's Hindu Code page 839). The lunacy of the mahant of a muth does not disqualify him to continue as its head though it would be a ground for appointing a substitute to carry on his duties during the continuance of his disability (see Vidyapurna v. Vidyanidhi 27 Mad. 435 (445). Similarly a person may be disqualfied if he is insane at the time of his appointment as Mathadhikari (Ram Prakash Das v. Anand Das 43 Cal. 707 at p. 719). It is not clear from the ppapers what exactly is the usage in the Lingayat community of this sect in respect of the appointment of the mahant. But it appears that when Niranjanayya's followers appointed him as Mathadhikari by adopting certain ritual he was presumably not insane. This appointment was subsequently recognised by the Sangli State. Although he was admitted to the M.M.Mental Hospital Thana in 1946, he was certified as of normal mind by the Superintendent of the Hospital in 1947. He cannot therefore be disqualified on this ground and there

appears no objection to Government restoring the attached property to the Math and paying him the amount of Rs.4260-12-0 lying in deposit with the Government.

Id/- (P.M.L.)

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Remembrancer of Legal Affairs.

U.R. to R.D.No. 11371, dated the 10th August 1950.

R.D.P.
20/6/56

S.C.

Office of the R.L.A.

Although the rule of "damdupat" does not apply to Mahomedans, still the benefit of that rule should be extended even to a Mahomedan debtor as in the present case on grounds of equity and also on the ground that in such matters the State should not adopt a policy of discrimination.

Id/-
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Remembrancer of Legal Affairs.

U.R. to A. & F.D.No. 15906, dated the
14th November, 1950